

Plaintiff PetEdge, Inc., complains against defendant Hammacher, Schlemmer & Company, Inc., as follows:

1. PetEdge is a corporation organized and existing under the laws of the Commonwealth of Massachusetts and has its principal place of business at 100 Cummings Center, Beverly, Massachusetts 01915.

2. PetEdge is in the business of designing, sourcing, manufacturing, and distributing pet-related merchandise.

3. PetEdge invented a folding pet ramp and steps apparatus and owns a patent directed to various embodiments of this apparatus, namely U.S. Patent No. 7,621,236 (“the ‘236 patent”). A copy of the patent is attached as Exhibit A. PetEdge manufactures and sells a folding pet ramp and steps embodying inventions claims in this patent.

4. On information and belief, Hammacher Schlemmer is a corporation organized and existing under the laws of the State of New York and has its principal place of business at 9307 N. Milwaukee Avenue, Niles, Illinois 60714.

5. On information and belief, Hammacher Schlemmer manufactures, uses, offers to sell, and/or sells an expansive array of home goods, including pet-related merchandise.

6. Hammacher Schlemmer's pet-related merchandise includes two folding pet ramps and staircases--a two-step version and a three-step version. A copy of an excerpt from the Hammacher Schlemmer website, www.hammacher.com, featuring both versions of the folding pet ramp and staircase, is attached as Exhibit B.

7. Hammacher Schlemmer's activities have been without express or implied license from PetEdge.

JURISDICTION AND VENUE

8. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35, United States Code. This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal question), 1332 (diversity), and 1338 (patent actions).

9. Venue is proper under 28 U.S.C. § 1391(b) and (c) and § 1400(b). Hammacher Schlemmer has committed and/or threatened to commit acts of infringement in this District, and this action arises from those acts. Hammacher Schlemmer has regularly engaged in business in this Commonwealth and District and purposefully availed itself of the privilege of conducting business in this District, for example, by offering for sale and selling The Pet Ramp and Staircase in this District.

THE PATENT INFRINGED

10. On November 24, 2009, the United States Patent and Trademark Office ("USPTO") issued United States Patent No. 7,621,236, entitled "Folding Pet Ramp and Steps"

(“the ‘236 patent”). The ‘236 patent was assigned to PetEdge, which owns the full right, title, and interest in it. A copy of the ‘236 patent is attached as Exhibit A.

11. The ‘236 patent has not expired and is in full force and effect.

12. Pursuant to 35 U.S.C. § 282, the ‘236 patent and each of its claims are presumed valid.

COUNT I
DEFENDANT’S INFRINGEMENT OF THE ‘236 PATENT

13. PetEdge realleges and incorporates by reference paragraphs 1-12 above as though fully set out herein.

14. In violation of 35 U.S.C. § 271(a), (b), and (c), Hammacher Schlemmer has been and still is infringing, contributing to, and/or actively inducing infringement of the ‘236 patent by manufacturing, using, offering to sell, and/or selling within the United States folding pet ramps and staircases, such as those depicted in Exhibit B, that are covered by one or more claims of the ‘236 patent.

15. Hammacher Schlemmer has profited and continues to profit from its manufacture, use, offers to sell, and sale of the infringing folding pet ramp and steps.

16. Upon information and belief, Hammacher Schlemmer’s infringement of the ‘236 patent has been and continues to be willful, wanton, and deliberate. For example, Hammacher Schlemmer had notice of this patent and was previously told, in communications with PetEdge, that the pet ramp/steps products it is selling fall within the scope of PetEdge’s patent. In or about June 2009, PetEdge notified Hammacher Schlemmer about the published application (U.S. 2008/0302312 A1, published December 11, 2008, and attached as Exhibit C) that resulted in the ‘236 patent. The ‘236 patent issued with claims that are substantially identical to the claims of the published application. Hammacher Schlemmer acknowledged the then-pending patent but

declined to take a license from PetEdge or to stop selling its accused products. Hammacher Schlemmer continues to sell the products and to flout PetEdge's patent rights.

17. PetEdge has been and continues to be damaged and irreparably harmed by Hammacher Schlemmer's infringement of the '236 Patent.

WHEREFORE, PetEdge respectfully asks this Court to enter judgment for PetEdge and against Hammacher Schlemmer and to grant PetEdge the following relief:

A. A Judgment under 35 U.S.C. § 271 finding that Hammacher Schlemmer infringes the '236 patent;

B. An order under 35 U.S.C. § 283 preliminarily and permanently enjoining Hammacher Schlemmer from infringing the '236 patent;

C. An award of damages under 35 U.S.C. § 284 adequate to compensate PetEdge for Hammacher Schlemmer's infringement of the '236 patent and an accounting to determine the proper amount of such damages;

D. An award of a reasonable royalty under 35 U.S.C. § 154(d) for the period from the date of publication to the date that the '236 patent issued;

E. A three-fold increase in damages as a result of Hammacher Schlemmer's willful, wanton, and deliberate acts of infringement;

F. An award pursuant to 35 U.S.C. § 284 of costs and prejudgment and post judgment interest on PetEdge's compensatory damages;

G. An award pursuant to 35 U.S.C. § 285 of PetEdge's attorney's fees incurred in this action;

H. An order directing the recall of any and all existing Hammacher Schlemmer folding pet ramp and step systems that infringe the '236 patent; and

I. Such further relief as this Court deems just and proper.

JURY DEMAND

PetEdge demands a trial by jury on all issues so triable.

Dated: June 22, 2010

PETEDGE, INC.
By its Attorneys,

/s/Erik Paul Belt

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